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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/034,237

12/27/2001

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006474.00004

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22907 7590 08/14/2009

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EXAMINER

AMINI, JAVID A

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

08/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/034,237	<b>Applicant(s)</b> HOISKO, JYRKI	
	<b>Examiner</b> JAVID A. AMINI	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25, 29-48 and 51-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 29-48, 51-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

Applicant's arguments filed 5/26/2009 have been fully considered but they are not persuasive.

Applicant on page 14 of the remarks argues that claims 84-87 have been amended to recite a “tangible” computer readable medium ... Applicant believes claims 84-87 overcome the 101 rejection.

Examiner's replies: An ordinary skill in the art may refer to the computer readable medium as communication media, See spec. pg 2 line 5. If the communication media is considered as a data carrier or a signal, then a signal can not be tangible. The claims 84-88 rejections under 35 U.S.C. 101 are still maintained. Also see rejection under 35 U.S.C. 112, first paragraph, below.

Applicant on page 15 of the remarks argues that the reference DIG does not appear to discuss displaying the raw image without the effect.

Examiner's replies: with respect to the following descriptions of “visual effect” in light of specification page 14 lines 26-27 describes the visual effect as the relative age of an image when compared to a set of images. Or on page 17 lines 26-29 describes the visual effect is a distorted version of the image. For example, the image may be inclined, stretched, granular or come out from a screen or otherwise be purposively distorted from the final image. Examiner believes the "raw image" that Applicant referred to is the image itself. The visual effect is type data that provides additional information about the content of the image. That is why the reference DIG teaches “metadata” which the visual effect is considered one type of metadata. It would have been obvious to one of ordinary skill in the art to recognize the teachings of DIG covers the

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visual effect of the claimed invention, e.g., DIG on page 3 describes the metadata is additional data linked to the image data which provides additional information about the contents of the image, the creation of the image, or the uses of the image. Metadata may be used in a variety of ways, including:

- Providing in-depth information on the image and its creation, such as date, time of day, focus distance, light levels, use of flash, GPS location, etc.
- Allowing easy indexing, identification, categorization and usage-control according to any pre-determined schema, such as image type, copyright conditions, originator, subject matter, location, etc.
- Enhancing the intrinsic content of the image, such as differentiating between several different beach images, which may look the same to an unknowing observer.

Applicant argues “the raw image without the “effects” on page 15 at third paragraph. Examiner equated the raw data as an image data in figure 2-3 below. The effects data are also part of the metadata section see figure below:

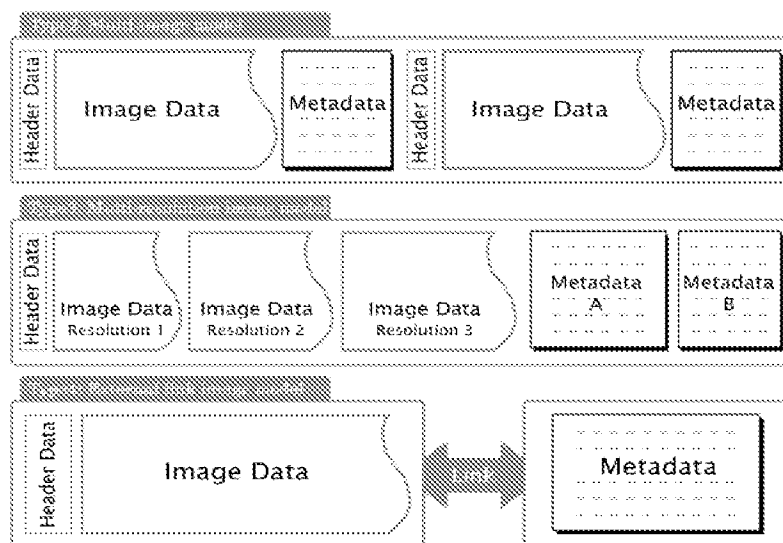


Figure 2-3: Additional conceptual structure of a digital image

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DIG describes clearly on page 8 under section 3.1 Examples of procedural metadata include:

- Parameters for image processing that change the visual appearance by arbitrary cropping, rotation, or other transformations.
- Order information to specify product and quantity.
- E-commerce information such as billing or payment data or delivery addresses.

Applicant on page 16 of the remarks argues regarding “predetermined time sequence”.

Examiner’s replies: Since the visual effect information is covered by the metadata of the DIG, then, one/an application may update or delete existing metadata, and may create additional metadata. Periodically the application updates the image’s metadata. Anotherwords, by deleting the metadata the image data is displayed, and periodically may be referred (examiner’s interpretation) as a predetermined time sequence.

Examiner’s notes: as results, the visual effect information of the claimed invention is taught by DIG ‘s fig 3-1 metadata that contains a descriptive information, and the descriptive information covers basic image parameter, image creation, content description, history and intellectual property rights, which are considered as the visual effect information of the image data.

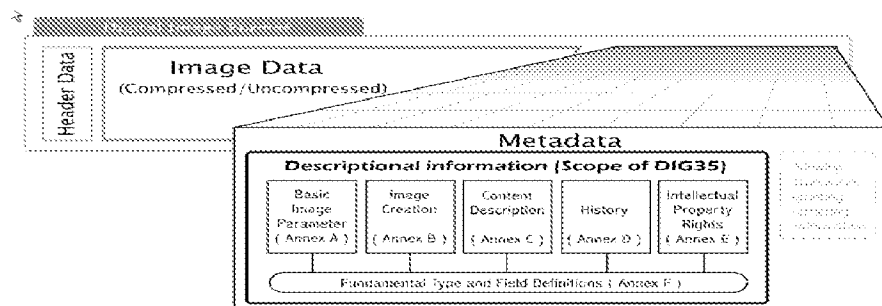


Figure 3-1: Scope of this specification within the Image Model

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Therefore, the previous rejections are still maintained.

### **Claim Interpretation**

The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris', 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Moreover, limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d, 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2,145-48; p 2100-9, c 1,1 1-4).

The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

The Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 84-88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter is "a computer readable medium". The spec. last paragraph of pg. 4 describes a communication system that covers transporting data between two user equipment. It is not cleared whether the computer readable medium is considered a system or a signal.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 84-88 are rejected under 35 U.S.C. 101 because

Claims 84-88 define a [computer program] with descriptive material. While “functional descriptive material” may be claimed as a statutory product (i.e., a “manufacture”) when embodied on a tangible computer readable medium, a [data carrier (page 2 line 5) data communication media, page 2 line 6), wireless interface page 2 line 10 are the same as signal, carrier wave, and Examiner believes the “medium” in the preamble of claim 84 may be similar to what mentioned in previous two lines] embodying that same functional descriptive material is neither a process nor a product (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of § 101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material.

Claims 85-88 are rejected with similar reasons as set forth in claim 84, above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 21-23, 33-35, 42-44, 46-58, 67-69, 76-78, 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over DIG35 Specification Metada for digital Images version 1.0, by Digital Imaging Group, Inc, hereinafter DIG, in view of Balabanovic et al. US 6976229 B1, hereinafter Balabanovic.

Claim 1.

DIG teaches a method (e.g., see fig. 2-1) comprising: teaches receiving both image data and additional visual effect information at a user equipment from a data communicating system, DIG teaches in fig. 2-5 generating a visual effect to be presented in association with a version of

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the image said visual effect being generated based on said visual effect information (e.g., section 2.3.3 second bullet), DIG is silenced specifying (see underlined features) after said receiving and generating displaying at said user equipment a version of said image with the visual effect on a display of the user equipment and (DIG teaches the image without said visual effect on the display, on page 11 section 3.3.2 discloses that the applications read and parse the XML data, also the application may update or delete existing metadata (Examiner's note: visual effect or image information) the image without said visual effect on the display **in a predetermined time sequence**.

It would have been obvious to one of ordinary skill in the art to recognize that DIG35 image metadata contained at least a visual effect, because DIG provided examples of procedural metadata that include cropping, rotation, or other transformation, see chapter 3 on page 8, fig. 3-1. (Examiner's notes: the claimed invention does not specify what type of visual effects, therefore a rotation of an image can be considered as a visual effect, and on the other hand in fig. 3-1 illustrated image data and metadata are separated from each other, because on page 152 section II.3.2.1 discloses by renaming an image file the corresponding metadata link may not be updated).

The special effects filters (see, page 37) of DIG motivates one of ordinary skill in the art to combine the teachings of Balabanovic in col. 5 lines 5-62 by identifying an image with background colors (e.g., blue) that each color corresponding to different story into DIG's teaching in order to separate stories being visually distinguished using different colored backgrounds, see col. 5 lines 23-26.

Claim 2.



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DIG teaches the image without said visual effect on the display, on page 11 section 3.3.2 discloses that the applications read and parse the XML data, also the application may update or delete existing metadata (Examiner's note: visual effect or image information).

Thus, it would have been obvious to a person skill in the art to modify the teachings of Balabanovic in col. 5 lines 5-62 into DIG's teachings in order to provide the use of metadata with digital imaging with the advantage of being able to access a wide variety of data regarding the image. When a user accesses the image, however, the user is typically shown all the metadata associated with that image.

Regarding claims 49 and 85 are rejected with similar reasons as set forth in claim 2, above.

Claim 3.

DIG teaches in fig. 3-3 search using a metadata, that means the visual effect or information data is started before all image data has been received.

Regarding claims 50 and 86 are rejected with similar reasons as set forth in claim 3, above.

Claim 4.

DIG on page 11 discloses periodically the application updates the image's metadata.

Regarding claims 51 and 87 are rejected with similar reasons as set forth in claim 4, above.

Claim 5.

DIG teaches on page 4 section 2.2 that the visual effect is associated with the image.

Regarding claim 52, it is rejected with similar reasons as set forth in claim 5, above.

Claim 6.

DIG teaches on page 4 section 2.2 that the visual effect is associated with the image as the title, date/time of the capture, the capture source, and etc.

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Regarding claim 53, it is rejected with similar reasons as set forth in claim 6, above.

Claim 7.

Regarding the rejection of claim 7 is rejected with similar reason as set forth in claim 1 above. Except the visual effect visualizes the age of the image, see fig. 2-1 illustrates the picture of Maui with dated 1999/12/09 that is obvious to an ordinary person skill in the art to recognize it as an age of the image/picture.

Regarding claim 54, it is rejected with similar reasons as set forth in claim 7, above.

Claims 8-10.

DIG teaches on page 9 the visual effect visualizes a location of the source of the image data, section 3.2.3.

Regarding claims 55-57, they are rejected with similar reasons as set forth in claims 8-10, above.

Claim 11.

DIG teaches the visual effect visualizes relative location between the device and the user equipment, see section B.3.2.5 on page 36 subject distance.

Regarding claim 58, it is rejected with similar reasons as set forth in claim 11, above.

Regarding claims 21-22, and 24 DIG discloses on page 3 the importance of metadata in an image, that may cause to prioritize order of the image.

Regarding claims 67-68, they are rejected with similar reasons as set forth in claims 21-22, above.

Claim 23.

DIG teaches on page 44 fig. C-1.

Regarding claim 69, it is rejected with similar reasons as set forth in claim 23, above.

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Claims 33-34, 76-77.

DIG teaches under section 2.1.

Claims 35, 78.

DIG teaches under section 2.4.

Claim 42.

Claim 42 is rejected with similar reasons as set forth in claim 1 above.

Claim 43.

DIG teaches the claimed feature in section 2.4 page 7.

Claim 44.

The claimed feature which is configured to display said visual effect before all image data has been received, DIG teaches in section 2.4 page 7, different approaches to load the image data before or after the metadata, this option can be customized by a user.

Claims 46-48, 84.

Claims 46, 84 are rejected with similar reasons as set forth in claim 1 above. Regarding claim 47 recited the predetermined sequence is determined by the additional associated information, That DIG in fig. 2-5 illustrates four pages of image metadata in a predetermined time sequence, see specification objection for more detailed information.

Regarding claim 48, Examiner believes that conveying a message can be referred to fig. 2-5 of DIG that the image is an old image because the visual effect of folding top corner of the image.

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**Claims 12-20, 24-25, 29-32, 36-41, 45, 59-66, 70-75, 79-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over DIG, Balabanovic, and in view of Delorme et al. 6,321,158 B1, hereinafter Delorme.**

Claim 12.

DIG teaches on page 46 section C.3.4 location, GPS coordinate, for location of an object see section F.2.15 location type, but DIG and **Balabanovic** does not illustrate first and second locations as Delorme illustrates in figs. 1A2-3 a navigation system with a wireless device. The function of a navigation system is well known.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme's PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and **Balabanovic**, because, Delorme uses the navigation, and a digital camera 13 with a wireless system that would be beneficial to a user to incorporate DIG's XML (Extensible Markup Language) to obtain the claimed limitations.

Regarding claim 59, it is rejected with similar reasons as set forth in claim 12, above.

Claim 13.

DIG teaches on page 46 section C.3.4 location, GPS coordinate, and for location of an object see section F.2.15 location type.

Regarding claim 60, it is rejected with similar reasons as set forth in claim 13, above.

Claim 14.

DIG teaches under section B.3.2 camera capture.

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Claim 15.

Dig in fig. 2-1 illustrates an image of Maui Hawaii.

Regarding claim 61, it is rejected with similar reasons as set forth in claim 15, above.

Claim 16.

DIG under section C.3.4 location teaches address, GPS coordinate, DIG does not explicitly specify displaying a map but it would have been obvious to an ordinary person in the art to recognize that the GPS coordinate can be considered as a map.

Regarding claim 62, it is rejected with similar reasons as set forth in claim 16, above.

Claim 17.

DIG teaches on page 92 the GPS reference points as North/South, East/West, see page 94 section F.2.16 under “Yaw”.

Regarding claim 63, it is rejected with similar reasons as set forth in claim 17, above.

Claim 18.

DIG teaches on page 36 under subject distance.

Regarding claim 64, it is rejected with similar reasons as set forth in claim 18, above.

Claim 19.

Recited the size of the image is changed at a speed that visualizes the distance between the location and the user equipment. Examiner’s interpretation: the automatic zooming that Delorme teaches in the abstract teaches the claimed feature, because an ordinary person in the art would be able to change the size of the image by altering the zooming in/out.

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Regarding claim 65, it is rejected with similar reasons as set forth in claim 19, above.

Claim 20

DIG does not explicitly specify moving a version of the image on the display; however, it would have been obvious to an ordinary person in the art to recognize that DIG covers the claimed feature under B.3.4.2 Film.

Regarding claim 66, it is rejected with similar reasons as set forth in claim 20, above.

Claims 24-25.

Delorme teaches moving arrow 32 in fig. 1A2 that can be considered as a visual effect of the origin of the image, DIG teaches under II.2.2.4. on page 152. DIG teaches under section 2.1.

Regarding claims 70-71, they are rejected with similar reasons as set forth in claims 24-25, above.

Claim 29.

DIG teaches in section 2.2. Delorme in col. 28 lines 11-13 teaches colored symbols.

Regarding claim 72, it is rejected with similar reasons as set forth in claim 29, above.

Claim 30.

DIG teaches on page 36 using color temperature may visualize a predefined condition.

Regarding claim 73, it is rejected with similar reasons as set forth in claim 30, above.

Claims 31-32, the following limitations are obvious because any computer equipped with a graphical controller that manage the colors on a display, the claims recited altering a color index table of the image, in light of the specification discloses on page 10 lines 9-10 using an appropriate hardware or software that is taught by Delorme in col. 12 lines 20-30.

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Regarding claims 74-75, they are rejected with similar reasons as set forth in claims 31-32, above.

Regarding claim 73, it is rejected with similar reasons as set forth in claim 30, above.

Claims 36-37.

The presentation of the visual effect comprises provision of a shaking or vibrating version of the image, Dig does not explicitly specify animating the visual effect, however, Delorme at col. 32 lines 5-25 teaches customized plan with an animation. Examiner's note: animating version of an image may be considered as a distorted version of the image.

Regarding claims 79-80, they are rejected with similar reasons as set forth in claims 36-37, above.

Claim 38.

The claim recited one differently sized version of the image, and specification does not specify what the specified size of the image is, however, Delorme in fig. 8D steps 874 and 878 teaches effectively increment or decrement the POI pointer.

Regarding claim 81, it is rejected with similar reasons as set forth in claim 38, above.

Claims 39-40, 82-83.

Delorme clearly teaches the claim features in figs. 1.

Claim 41.

Claim 41 is rejected with similar reasons as set forth in claim 1 above, except the claim limitation in line 2, "a mobile station", that is taught by Delorme in figs. 1.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme's PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and

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**Balabanovic**, because, Delorme uses the navigation, and a digital camera 13 with a wireless system that would be beneficial to a user to incorporate DIG's XML (Extensible Markup Language) to obtain the claimed limitations.

Claim 45.

Claim 45 is rejected with similar reasons as set forth in claim 1 above, except the claim limitation in lines 4-6 that recited "a camera configured to capture an image .." Delorme teaches this limitation in figs. 1.

Thus, it would have been obvious to a person skill in the art at the time of the invention to modify Delorme's PDA 15 in fig. 1A3, also using the internet 109 in fig. 1A into DIG and **Balabanovic**, because, Delorme uses the navigation, and a digital camera 13 with a wireless system that would be beneficial to a user to incorporate DIG's XML (Extensible Markup Language) to obtain the claimed limitations.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAVID A. AMINI whose telephone number is (571)272-7654.

The examiner can normally be reached on 7-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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